

Notice of Allowability	Application No.	Applicant(s)	
	10/615,086	CHIU ET AL.	
	Examiner	Art Unit	
	Laura M. Schillinger	2813	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to 8/1/05.
2. The allowed claim(s) is/are 1-12.
3. The drawings filed on 07 July 2003 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

DETAILED ACTION

Election/Restrictions

Since all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement made in the Office action mailed on 11/26/04 is hereby withdrawn.

Allowable Subject Matter

Claims 1-12 are allowed.

The following is an examiner's statement of reasons for allowance:

Applicant's arguments dated 8/1/05 are deemed to be persuasive in light of Phillips v. AWH Corp., Fed. Cir. No. 03-1269, 7/12/05 which reverses Texas Digital Systems Inc. v. Telegenix Inc., 308 F.3d 1193 (Fed. Cir. 2002). That is, in prior prosecution the Examiner afforded the broadest reasonable interpretation to the claim language term "ultra- uniform" thereby concluding that the broad term could be anticipated by prior art. However, now it is clear that claim interpretation should start with the specification, that is "[P]roperly viewed the 'ordinary meaning' of a claim term is its meaning to the ordinary artisan after reading the entire patent." Phillips v. AWH Corp., Fed. Cir. No. 03-1269, 7/12/05.

Applicant's specification describes that "ultra-uniform silicide means a layer of silicide where there are no variations in thickness greater than about 3% of the overall thickness" (see Applicant's specification, page 7).

Therefore the Examiner interprets this to be the definition of "ultra uniform silicide". Prior art teaches the combination of all the limitations of claims 1 and 7 along with forming a

“uniform silicide”; however fails to teach an “ultra-uniform silicide whereby there are no variations in thickness greater than about 3% of the overall thickness” as claimed by the Applicant. Claims 1 and 7 both contain this allowable subject matter and are therefore deemed to be allowable over prior art. Moreover, claims 2-6 and 8-12 act only to further narrow the allowable subject matter and are therefore also deemed to be allowable over prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura M. Schillinger whose telephone number is (571) 272-1697. The examiner can normally be reached on M-T, R-F 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl W. Whitehead, Jr. can be reached on (571) 272-1702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Laura M Schillinger
Primary Examiner
Art Unit 2813

08/11/05